



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,106	11/09/2001	Daniel K. Schiffer	KCC-15,891	3014

35844 7590 09/15/2003

PAULEY PETERSEN KINNE & ERICKSON  
2800 WEST HIGGINS ROAD  
SUITE 365  
HOFFMAN ESTATES, IL 60195

EXAMINER

PRATT, CHRISTOPHER C

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/036,106	<b>Applicant(s)</b> SCHIFFER ET AL.	
	<b>Examiner</b> Christopher C Pratt	<b>Art Unit</b> 1771	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-27,31 and 35-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-27,31 and 35-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 21-22, 24-26, 31, 35-36, 38-42, 44-49, 53-54, and 56-58 are rejected under 35 U.S.C. 102(a) as being anticipated by Branham et al (6261674 B1).

Branham is concerned with the creation of a breathable laminate comprising a breathable stretch-thinned film (col. 3, lines 27-30). Said film comprising a filler and voids formed around the filler particles to facilitate passage of water vapor through the film (col. 8, lines 2-9).

Said laminate comprising a fibrous nonwoven web, which can be spunbond or meltblown (the examiner notes that meltblowing is a form of airlaying) (col. 15, lines 12-14 and 43-48). The film and nonwoven web are adhesively bonded together (col. 15, lines 33-35).

Said film comprising applicant's claimed biodegradable thermoplastic polymer (col. 5, lines 53-60).

Said laminate used in applicant's claimed uses (col. 15, lines 15-21).

Said filler comprising calcium carbonate, organic fillers, and water-swellaable fillers (col. 8, lines 18-32) used in applicant's claimed proportions (col. 8, lines 44-45).

Branham teaches uniaxial and biaxial stretching (col. 4, lines 39).

With respect to claim 53, Branham teaches a multi-layer film wherein one layer can act as a skin layer (abstract).

Branham teaches both layers to contain filler particles (col. 7, lines 60-61).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branham et al (6261674 B1) in view of Lavon et al (6050985).

Branham fails to teach thermally bonding the film and nonwoven web together, and a web comprising biodegradable polymers. Lavon is concerned with the creation of diapers and related personal care articles (abstract).

Lavon teaches thermally bonding a nonwoven and film together (col. 19, lines 29-33). Lavon teaches thermal bonding to be functionally equivalent to adhesive bonding. It would have been obvious to a person having ordinary skill in the art to select from either of these known equivalents. The skilled artisan would have been motivated to choose thermal bonding over adhesive bonding by the desire to reduce costs by eliminating the need for adhesives.

Lavon teaches the use of a nonwoven web comprising biodegradable polymers (col. 17, lines 45-55). It would have been obvious to a person having ordinary skill in

Art Unit: 1771

the art to form Branham's web from biodegradable polymers. Such a modification would have been motivated by the desire to render the entire laminate water-dispersible and environment-friendly.

5. Claims 37, 50-52, 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Branham et al (6261674 B1) in view of Zhao et al (6514602 B1).

Branham teaches the use of biodegradable polymers and water dispersible polyesters and copolyesters, but does not specifically teach terpolymers of butandiol , terephthalic acid, or adipic acid.

Zhao is concerned with the creation of water-dispersible, biodegradable films used in diapers and related personal care products (abstract). Zhao teaches forming said films from the water dispersible, biodegradable polymers claimed by applicant (col. 7, lines 1-8). The examiner notes that Zhao teaches the same films sold by Eastman Chemical Company that applicant utilizes (p. 10, lines 1-4 of applicant's specification). It would have been obvious to a person having ordinary skill in the art to utilize the polymers taught by Zhao as the copolyesters of Branham. Such a combination would have been motivated by the desire to create a water-flushable, biodegradable film with "extremely desirable mechanical properties including the ability to be stretched and elongated without tearing or ripping, and sufficient softness and flexibility to provide comfort for the wearer without excessive noise generation during use (col. 7, lines 13-20)."

Art Unit: 1771

With respect to claim 55, it would have been obvious to a person having ordinary skill in the art to make both film layers of Branham from biodegradable polymers. Such a modification would have been motivated by the desire to render the entire laminate water-dispersible and environment-friendly.

6. Claim 43 is rejected under 35 U.S.C. 103(a) as being unpatentable over Branham et al (6261674 B1) in view of Trinh et al (5714445).

Branham does not teach the use of cyclodextrin in the film material. Trinh is concerned with the creation of personal care articles (abstract). Trinh teaches the use of a film comprising cyclodextrin particles (col. 6, lines 40). It would have been obvious for a person having ordinary skill in the art to utilize cyclodextrin in the film of Branham. Such a combination would have been motivated by the desire to improve the odor control properties of Branham's laminate.

### ***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Pratt whose telephone number is 703-305-6559. The examiner can normally be reached on Monday - Friday from 7 am to 4 pm.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the

Art Unit: 1771

organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in black ink, appearing to read 'C. Pratt', with a stylized, looping flourish at the end.

Christopher C. Pratt  
September 4, 2003